

**REMARKS**

Claims 7-9 remain in this application. Claims 1-6 and 10-15 have been canceled without prejudice.

Claim 7 has been amended in view the disclosure of Giacometti (EP 0 737 462).

Support for this amendment can be found throughout the specification at, for example, pages 4-6 and Figures 1-3.

It is submitted that no new matter has been included in the above amendment.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page(s) is/are captioned "Version with markings to show changes made."

**Restriction Requirement**

Claims 1-5 and 10-15 of the application are canceled without prejudice. Election of claims 6-9 without traverse is hereby affirmed and affirmative cancellation of the appropriate claims has been made above.

**Anticipation Rejection**

Claims 6-9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Giacometti (EP 737462) ("Giacometti").

For the reason set forth below, the rejection is traversed.

Giacometti purports to disclose the use of a sheet material to cover the outside of an absorbent product. (Col. 2, Ins. 57-58.) At least one portion of the surface of the sheet material bears a layer of fibers applied by flocking, i.e., anchored to the surface of the sheet material by a layer of resin or other adhesive and aligned substantially at right angles to the surface of the material. (Col. 3, Ins. 1-6.) The sheet material can be a nonwoven fabric but is preferably a plastic film. (Col. 3, Ins. 11-12.) The plastic film can be perforated. (Col. 3, ln. 31.) It is preferred that the film be perforated prior to flocking. (Col. 3, Ins. 33-34.) At least a portion of the external surface of the topsheet has fibers that are applied by flocking, i.e., are attached to the external surface by a layer of adhesive. (Col. 3, Ins. 36-42.) As seen in Figure 3, the perforated and unflocked strip 27 of the film F forms the central zone of the sanitary napkin 30 with the flocked, preferably unperforated, strips 25 on either side of this. (Col. 6, Ins. 22-24.) The plastic surface of the film comes into contact with the body only in

the central zone, while the lateral zones have a layer of flocked fibers and the skin is therefore in contact with the fibers. (Col. 6, Ins. 25-28.) Additionally, Figures 6 and 7 clearly show that the apertures originate on the same surface that is flocked.

In making the rejection, the Examiner asserted that Giacometti "is concerned with the creation of an apertured film with an adhesive disposed on the first surface thereof." (Paper 3 at 2.) The adhesive comprises hydrophilic or hydrophobic materials. (Paper 3 at 2.)

In response to Paper No. 6, the Examiner contended that "Applicant argues that Giacometti does not teach apertures originating from the second surface." (Paper No. 7 at 2.) With all due respect, the Examiner mischaracterized the record.

First, "Applicant" did not make such an argument. Rather, the undersigned representative set forth a position regarding the rejection made by Examiner.

Second, there was nothing in the position taken by the undersigned that stated that "the Giacometti does not teach apertures originating from the second surface." Rather, the record is clear that "Giacometti does not disclose having the apertures originate in a different surface than that which has been flocked."

As set forth at page 3 of Paper No. 6, the Examiner failed to meet the requisite burden for the rejection. The new facts added in the *Advisory Action* of Paper No. 7 at 2, further confirm that the Examiner did not meet the requisite burden in Paper No. 5. The fact that the Examiner made the rejection in Paper No. 5 final is itself improper because the Examiner relied on new facts not previously made of record to make out the rejection.

As is well settled, anticipation requires "identity of invention." Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim. Furthermore, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference.

Amended claim 7 of the present application requires that adhesive be disposed on a first surface and the apertures originate in the second surface of the nonwoven material. As disclosed and claimed in the present application, the adhesive composition of the present invention is applied to one surface of the nonwoven material in a pattern. (Page 4, line 30.) Aperturing may be done so that the apertures originate in the surface of the nonwoven material that is opposite to the surface on which the adhesive composition has been applied. (Page 5, lines 21-25.) Apertures "originate" in a surface of a planar material when their

sidewalls protrude away from such surface, projecting outward from the opposite surface.

(Page 5, lines 25-27.)

Additionally, Figure 1 shows a cross-sectional view of the nonwoven material according to the invention. (Page 6, line 8-9.) The nonwoven material has first surface 11 (lower surface) and second surface 12 (upper surface) with an adhesive composition containing flocked fibers 14 disposed on first surface 11 (lower surface). (Page 6, lines 10-13.) Figure 2 is a top view of the nonwoven material of Figure 1. (Page 6, line 17.) A large land area 15 is present where the adhesive composition has been applied to the first surface 11 (not shown). (Page 6, lines 19-20.) Figure 3 shows a bottom view of the nonwoven material of Figure 1. (Page 6, line 21.) The sidewalls of the apertures 9 project outward from the first surface 11. (Page 6, line 22.) The flocked fibers 14 also project outward from the adhesive composition and the first surface 11. (Page 6, lines 23-24.)

Giacometti discloses a film in which the apertures originate on the same surface that has adhesive and flocked fibers. The apertures of amended claim 7 and claims dependent therefrom of the captioned application originate in the second surface of the nonwoven material while the adhesive composition is disposed on the first surface. As it is not seen where Giacometti discloses having the apertures originate in a different surface than that which has been flocked, viz. Giacometti does not disclose all the elements of amended claim 7, the rejection is improper and should be withdrawn.

Based on the foregoing amendment and remarks, consideration of the amended claim and withdrawal of the final rejection is respectfully submitted.

Accordingly, for the reasons set forth above, withdrawal of the rejections and objections and allowance of the claims is respectfully requested. If the Examiner has any questions regarding this paper, please contact the undersigned.

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Respectfully submitted,

By:   
Timothy E. Tracy  
Reg. No. 39,401

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-6586  
Dated: October 18, 2002  
**Customer No. 000027777**

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

Claims 1-6 and 10-15 have been canceled without prejudice.

Claim 7 has been amended as follows:

7. (Amended) The nonwoven material of claim 6, A nonwoven material comprising: 1) a first surface and a second surface opposite the first surface, 2) an adhesive composition disposed in a pattern on the first surface of the nonwoven material, and 3) a plurality of apertures in said nonwoven material, wherein said apertures originate in the second surface of the nonwoven material.